

**State of Washington
Joint Legislative Audit and Review Committee (JLARC)**



Preliminary Work on Future Sunset Reviews

- **Intermediate Driver License Program**
- **Office of Public Defense**
- **Underground Storage Tank Program**

Briefing Report 01-6

June 27, 2001

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in alternative formats for persons with disabilities.*

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

506 16th Avenue SE
Olympia, WA 98501-2323
[Campus Mail: PO Box 40910]
(360) 786-5171
(360) 786-5180 Fax
<http://jlarc.leg.wa.gov>

COMMITTEE MEMBERS

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LEGISLATIVE AUDITOR

Tom Sykes

Established by Chapter 44.28 RCW, the Joint Legislative Audit and Review Committee (formerly the Legislative Budget Committee) provides oversight of state funded programs and activities. This joint, bipartisan legislative committee consists of eight senators and eight representatives equally divided between the two major political parties.

Under the direction of the Legislative Auditor, committee staff conduct performance audits, program evaluations, sunset reviews, and other policy and fiscal studies. Studies focus on the efficiency and effectiveness of agency operations, impact of state programs, and compliance with legislative intent. As appropriate, recommendations to correct identified problem areas are included. The Legislative Auditor also has responsibility for facilitating implementation of effective performance measurement throughout state government.

**Preliminary Work on
Future Sunset Reviews**

BRIEFING REPORT 01-6

REPORT DIGEST

JUNE 27, 2001



STATE OF WASHINGTON

**JOINT LEGISLATIVE AUDIT AND
REVIEW COMMITTEE**

AUDIT TEAM

ROBERT KRELL
Principal Management Auditor

RAKESH MOHAN
Principal Management Auditor

RON PERRY
Staff Coordinator

LEGISLATIVE AUDITOR
Tom Sykes

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or contact

**Joint Legislative Audit & Review
Committee
506 16th Avenue SE
Olympia, WA 98501-2323
(360) 783-5171
(360) 786-5180 FAX**

SUMMARY

The new Sunset Law, enacted in the 2000 Session [C 189 L 00; Chapter 43.131 RCW], places greater responsibility on agencies and programs subject to the Act. A key change is that they are now required to develop performance measures and a data collection plan, and submit them to the Joint Legislative Audit and Review Committee (JLARC) for review and comment. This report covers the first three programs subject to this new requirement:

- The Intermediate Driver License Program,
- The Office of Public Defense, and
- The Underground Storage Tank Program.

The purpose of this new “front-end review” is two-fold: 1) to reach consensus early on as to what measures will be used to evaluate the programs when it is time to conduct the sunset reviews, which for these programs will not be until 2007 or 2008; and 2) to help ensure that the necessary data will be available. To help facilitate this review process, JLARC staff developed a set of criteria and a list of expectations for agencies to follow. This listing is included as Part I to this report.

THE THREE PROGRAMS

As required, each of the three programs below developed and submitted a set of performance measures that address key aspects of legislative intent for the program, and a data collection plan. Each has agreed to provide information relating to its performance measures to the Office of Financial Management as part of its biennial budget request.

Intermediate Drivers License Program. The 2000 Legislature required that new drivers under age 18 be issued restricted, “intermediate” driver’s licenses starting July 1, 2001. The program is scheduled to terminate in 2009, with a sunset review by JLARC required in 2008.

The performance measures and data collection plan were jointly submitted by the Department of Licensing, the Washington Traffic Safety Commission, and the Office of the Superintendent of Public Instruction. The key measures that will be used to evaluate the effectiveness of the program include reductions among 16 and 17 year old drivers in the rates of total collisions per year, fatal collisions per year, and traffic offenses per year.

Office of Public Defense. The 1996 Legislature established this independent judicial branch agency to “*implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of indigent appellate services funded by the state.*” The office is responsible for administering indigent defense services at the appellate level only.

The program is scheduled to terminate in 2008. JLARC will conduct its sunset review of the program in 2007. Key measures that will be used to evaluate the effectiveness of the program include:

- The percentage of appellate judges, responding to a survey, that rate the quality of indigent appellate services as effective and efficiently provided, and
- The percentage of indigent appellate defense briefs rejected for being of unacceptable quality.

Underground Storage Tank Program. The 1989 Legislature enacted the program to protect human health and the environment from leaking underground storage tanks containing petroleum products. These tanks are located at gas stations and other commercial facilities.

The program is scheduled to terminate in 2009. JLARC will conduct its sunset review of the program in 2008. To address the legislative intent for the program, the Department of Ecology has proposed a number of performance measures. These measures will show how well the program is doing with respect to:

- Upgrade of tanks and related equipment for corrosion, spill, and overflow protection;
- Removal or closure of substandard tanks;
- Operation of underground storage tank facilities in compliance with state and federal requirements;
- Reduction in release of hazardous substance from leaking tanks; and
- Clean up of sites involving leaks from these underground storage tanks.

COMMITTEE ACTION

On June 27, 2001, the Joint Legislative Audit and Review Committee concurred with each of the proposals contained in this report to be used in JLARC’s future sunset review of the affected programs.

Representative Val Ogden

Chair

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- June 18, 2001, JLARC Audit Team Memo to Committee
- June 11, 2001, Cover Memo from the Washington State Office of Public Defense to JLARC
- Performance Measures and Data Collection Plan Report

Part 4: Underground Storage Tank Program

- June 15, 2001, JLARC Audit Team Memo to Committee
- June 1, 2001, Cover Memo from the Department of Ecology to JLARC
- Performance Measures and Data Collection Plan Report

Part 1

Expectations Regarding JLARC's Review of a Sunset Entity's Performance Measures and Data Collection Plan

EXPECTATIONS REGARDING JLARC'S REVIEW OF A SUNSET ENTITY'S PERFORMANCE MEASURES AND DATA COLLECTION PLAN PURSUANT TO THE WASHINGTON SUNSET ACT (CHAPTER 43.131 RCW)

INTRODUCTION

Under the Washington Sunset Act, entities that have been scheduled for potential termination have “the burden of demonstrating the extent to which performance results have been achieved.” They are further required to:

develop performance measures and a data collection plan and submit them for review and comment to the joint legislative audit and review committee within one year of the effective date of the legislation establishing the sunset termination. (RCW 43.131.061)

This document outlines JLARC's preliminary expectations regarding agency-submitted performance measures and data collection plans, and generally describes our process for reviewing them.

Performance Measures

JLARC's governing statute defines performance measures as:

a composite of key indicators of a program's or activity's inputs, outputs, outcomes, productivity, timeliness, and/or quality. They are [a] means of evaluating policies and programs by measuring results against agreed upon program goals or standards. (RCW 44.28.005(8))

As the above statutory definition indicates, “performance measures” is an umbrella term. Included under this umbrella should be at least the following three types of sub-measures:

1. Input Measures: Inputs typically include such items as funding and staffing levels. The measures and corresponding data should reflect how inputs are **allocated** throughout the agency or program.
2. Output Measures: Outputs refer to the type and quantity of services provided or performed and are sometimes referred to as workload measures. Separate output measures should be identified for all key aspects of the agency or program.
3. Outcome Measures: Outcomes refer to the overall results or impact of the program. The measures are essentially designed to answer the bottom-line question: *what impact has the agency or program had on the problems or issues it was intended to address?* Since these are the most significant measures, the greatest attention will be directed to them.

- a. Outcome Measures should be *comprehensive*, with individual measures being identified for all major impact areas. In some cases, this may include identifying measures related to both *direct* and *indirect* impacts.
- b. Outcome Measures should be as *specific* as possible. Where appropriate, for example, they should be expressed as a “rate” rather than a “whole number.”
- c. Outcome Measures should include, where appropriate, a reasonable “*target level*” for desired performance.

Data Collection Plan

The data collection plan should identify all data that will be collected, which must be sufficient to address all of the identified performance measures. For each data element the plan should describe:

- When (or how frequently) it will be obtained;
- Where it will be obtained from;
- How it will be obtained, and;
- Who will be responsible for obtaining it.

We strongly advise agencies to report on their sunset-related performance measures as part of their biennial budget submissions.

The Written Document

At a minimum, the formal, written document should address each of the items below.

1. Overview of the Sunset Entity: A summary description of the particular agency or program scheduled for sunset.
2. Legislative Intent: A description, based on the agency’s understanding, of the legislature’s intent in establishing the agency or program scheduled for sunset.
3. Agency Roles: A summary description of the roles to be played by all key agencies, or divisions within agencies, related to the program scheduled for sunset.
4. Performance Measures: As described above.
5. Data Collection Plan: As described above.

General Process

JLARC’s process for reviewing sunset performance measures and data collection plans will generally follow the steps outlined below. During the entire process, JLARC encourages free, open and reciprocal communications with agency/program staff. As such, staff may contact the designated JLARC staff person(s) for suggestions, guidance, feedback, etc., as often as needed.

1. Following initial discussions and presentation of these expectations, staff of the sunset entity will be requested to formally prepare and submit a written report of its performance measures and data collection plan as described above.
2. JLARC staff will review the report. They will also share the report with, and request the input of, pertinent staff from the Office of Financial Management and legislative committees. If there are any concerns, perceived shortcomings, or suggestions for change, JLARC staff will identify them in writing.
3. If JLARC staff have identified concerns or made suggestions for change, agency/program staff will be requested to prepare and submit a revised version of their performance measures and data collection plan.
4. JLARC staff will prepare a written report of their review of the program/agency's performance measures and data collection plan. This report will summarize the performance measures and data collection plan, and comment on their adequacy. This report, along with the agency/program's performance measures and data collection plan, will be provided to JLARC members. In addition, JLARC staff will orally present their report to the Committee at a regularly scheduled, public meeting. Agency/program staff will likely also be invited to make a brief presentation to the Committee at this meeting, and to respond to any questions Committee members may have.
5. Collectively, these assembled materials from this "front-end" process, as well as the reactions and comments from the members of the Joint Legislative Audit and Review Committee, will become part of JLARC's review materials to be used for the subsequent sunset review several years in the future.

Part 2

Intermediate Driver License Program

June 18, 2001 JLARC Audit Team Memo to Committee

May 30, 2001, Cover Memo from the Department of Licensing, the Washington Traffic Safety Commission, and the Office of Superintendent of Public Instruction to JLARC

Performance Measures and Data Collection Plan Report

- › Appendix A – Research Prospectus – Richard Doane and Philip Salzberg, Washington Traffic safety Commission
- › Appendix B – Timeline and Activities – WTSC Evaluation Study of the Safety Impact of the Intermediate License Program
- › Appendix C – The Intermediate Driver License Law



Joint Legislative Audit and Review Committee

LEGISLATIVE AUDITOR
Tom Sykes

506 16th Avenue S.E.
Olympia, WA 98501-2323
Campus Mail: PO Box 40910

PHONE: 360-786-5171
FAX: 360-786-5180
TDD: 1-800-635-9993

SENATORS

Darlene Fairley
Georgia Gardner, Chair
Jim Horn, Secretary
Bob Oke
Debbie Regala
Val Stevens
Pat Thibaudeau
Joseph Zarelli

REPRESENTATIVES

Gary Alexander
Mark Doumit
Cathy McMorris
Tom Mielke
Mark Miloscia
Val Ogden, Asst. Secretary
Phil Rockefeller
(1 vacancy)

E-mail: neff_ba@leg.wa.gov
Internet: <http://jlarc.leg.wa.gov>

June 18, 2001

TO: Members of the Joint Legislative Audit and Review Committee (JLARC)

FROM: ^{RK} Robert Krell, Principal Management Auditor
Ron Perry, Staff Coordinator ^{RP}

RE: Intermediate Driver License Program – Sunset Review Performance Measures and Data Collection Plan

Attached are the Performance Measurement and Data Collection Plan, and accompanying cover letter, for the Sunset Review of the Intermediate Driver License Program that is being jointly submitted by the Department of Licensing, the Washington Traffic Safety Commission, and the Office of the Superintendent of Public Instruction.

The Intermediate Driver License (IL) Program is one of the first three entities to be subject to the new Sunset provisions that were established by legislation sponsored by the Committee during the 2000 Legislative Session (SHB 2441 – Chapter 189, Laws of 2000). The attached Plan responds to the most significant of the new requirements: that entities subject to termination under the Sunset Act “develop performance measures and a data collection plan and submit them for review and comment to [JLARC].”

The IL Program, which will be implemented on July 1, 2001, was established by Chapter 115, Laws of 2000 (ESSB 6264). It requires that young novice drivers be issued a restrictive “intermediate” driver license (IL) until they reach the age of 18 years. The law restricts intermediate drivers, for one year after receiving an IL, from driving between 1 a.m. and 5 a.m. unless supervised by a parent, guardian, or licensed driver at least 25 years old, and from carrying passengers under the age of 20 who are not members of the driver’s immediate family. Pursuant to its enabling legislation, the IL Program is scheduled to terminate under the Sunset Act in 2009, with a JLARC-conducted sunset review required by June 30, 2008.

As noted in the attached plan, the key measures on which the program’s effectiveness will be evaluated include changes among 16- and 17-year-old drivers in:

- the total number of collisions per year,
- the number of fatal collisions per year, and
- the total number of traffic offenses per year.

Memo to Members of the Joint Legislative Audit and Review Committee
Re Intermediate Driver License Program – Sunset Review Performance Measures and Data Collection Plan
June 18, 2001
Page 2

In addition to outlining pertinent performance measures and a research and data collection plan, the attached document provides concise and informative background information on the program. It provides a framework for JLARC to evaluate the program in 2008 and make its recommendation then regarding the Sunset provision of this law.

We appreciate the efforts of the Department of Licensing, the Washington Traffic Safety Commission, and the Office of the Superintendent of Public Instruction in preparing this plan.

Attachments

From: Derek Goudriaan, Projects Manager, Department of Licensing

On Behalf of: Fred Stephens	John Moffatt	Terry Bergeson
Department of	Washington	Office of
Licensing	Traffic Safety	Superintendent
	Commission	of Public Instruction

Subject: Intermediate License Sunset Law Requirements
Data Collection and Performance Measurement Plan

Please find enclosed the Intermediate Driver License Performance Measurement and Data Collection Plan that has been prepared in response to the law's Sunset Act requirements. This plan was developed cooperatively by representatives from the Department of Licensing, the Washington Traffic Safety Commission and the Office of the Superintendent of Public Instruction, and with guidance offered by Robert Krell. We are confident that the plan demonstrates an effective strategy and approach to provide the legislature with the means to review and evaluate the Intermediate Driver License Program.

While the goal was to meet all of the legislative needs that have been identified, the request for the separate enumeration of differing intermediate license restriction violations - e.g., driving with teenage passengers versus driving during prohibited early morning hours - could not be satisfied due to the following reasons:

Under the provisions of the current law, the documentation of any intermediate license restriction violation will be recorded by law enforcement using a single violation code. This single code will prevent the courts and the Department of Licensing from differentiating between the various restriction violations that might be discovered during a law enforcement contact.

We suggest monitoring the number of citations written for intermediate license restriction violations for a period of six months. If the number of violations warrants separate tracking of each type of violation, then legislation could be enacted to designate a unique code for each kind of violation.

The Department of Licensing has a policy of providing equal access to its services.
If you need special accommodation, please call (360) 902-3900 or TTY(360) 664-0116.

As an aid in your review of the document the Intermediate Driver License Performance Measurement and Data Collection Plan has been organized as follows:

Plan Contents

- Data Collection and Performance Measurement Plan Pages 1-6
 - ❖ Sunset Entity Page 1
 - ❖ Legislative Intent Page 1
 - ❖ Agency Roles Page 2
 - ❖ Performance Measures Page 3
 - ❖ Data Collection Page 5
 - ❖ Contingencies for Data Collection Page 6
 - ❖ Plan Conclusion Page 6

- Appendix A – WTSC Research Prospectus Pages 7-10

- Appendix B – WTSC Activity Timeline Pages 11-13

- Appendix C – Intermediate Driver License Law (RCW) Pages 14-16

If you should have any additional questions or require any clarification of this plan's content, please contact the following individuals as appropriate for the need.

Department of Licensing

Derek Goudriaan, Projects Manager for Driver Examining @ 360 902-0126

Washington Traffic Safety Commission

Dick Doane, Research Analyst @ 360 586-3866
Phil Salzberg, Research Investigator @ 360 586-3873

Office of the Superintendent of Public Instruction

David Kinnunen, Program Supervisor Traffic Safety Education @ 360 753-6736

Intermediate License Sunset Law Requirements

Data Collection and Performance Measurement Plan

For your review and acceptance we are presenting the following data collection and performance measurement plan. The Department of Licensing, Office of the Superintendent of Public Instruction and Washington State Traffic Safety Commission collaborated in preparing this document. It presents the plan developed to provide the legislature with the information needed to evaluate the effectiveness of an Intermediate Driver Licensing program.

Sunset Entity

The intermediate driver license program will be implemented on July 1, 2001. Specifically, RCW 46.20.075 requires that young novice drivers be issued a restrictive "intermediate" driver license (IL) until they reach the age of eighteen years. The law restricts intermediate drivers, for one year after receiving an IL, from driving between 1 a.m. and 5 a.m. unless supervised by a parent, guardian, or licensed driver at least 25 years old, and from carrying passengers under the age of 20 who are not members of the driver's immediate family.

IL drivers who violate the IL restrictions or commit a single traffic offense, as described in 46.61 RCW, will receive a written warning from the Department of Licensing. Upon committing a second violation or offense, the driver will receive a license suspension lasting for six months or until age 18, whichever occurs first. A third offense or violation will result in the driver's suspension until reaching age 18.

Engrossed Substitute Senate Bill 6264 includes a section calling for the review of the intermediate driver's license program before June 30, 2008. Under the provisions of the Washington Sunset Act, the Department of Licensing and the Traffic Safety Commission are charged with providing the information necessary for the Joint Legislative Audit and Review Committee to conduct the required review. In response to these requirements the following data collection and performance measurement plan has been developed. We believe the plan ensures that the necessary intermediate driver's license data will be collected, measured and compiled in a manner that demonstrates which performance results have been achieved.

Legislative Intent

Having recognized the need to develop a graduated licensing system Washington's legislature enacted the Intermediate Driver's License program. The need for the program was evident in light of the disproportionately high incidence of motor vehicle crashes involving youthful motorists. The IL will improve highway safety by progressively developing and improving the

* After holding an intermediate license for six months, the driver may carry up to three non-family passengers under the age of twenty.

skills of younger drivers in the safest possible environment, thereby reducing the number of vehicle crashes involving young novice drivers.

The IL program focuses on ways to augment 16- and 17-year drivers' experience and judgment in order to better prepare them for high-risk driving situations. If Washington's experience is similar to that of other jurisdictions with a graduated or intermediate license law, the expected result is a reduction in traffic offenses, collisions, property damage, personal injuries and deaths. Consequently, it will be possible to document the traffic safety benefits of this legislative initiative.

Agency Roles

The Department of Licensing (DOL), Office of the Superintendent of Public Instruction (OSPI) and Washington State Traffic Safety Commission (WTSC) each play a role in support of the IL. Our intent is to provide the legislature with an annual report that documents IL performance data and includes knowledgeable interpretation and analysis of the data. In addition, as necessary and appropriate to support or improve the program, we will submit IL data with our biennial budget package requests and requests for legislation. Here is a brief summary of the specific agency roles:

OSPI will:

- Communicate the intent and requirements of the IL to parents and youth, and promote the development of sound driving skills, judgment and awareness of a driver's responsibility for their own safety and that of other drivers who use the public roadways. This activity is already underway and will continue indefinitely unless the IL program is terminated.
- Establish rules and policies for the implementation of guided practice that will develop the process by which traffic safety personnel provide information on models for parent-guided driving practice. The rules and policies will be in use by December 31, 2001.
- Implement a new database to identify and track the progression and completion of continuing education hours. This will be enforced with a Washington Administrative Code revision and will be in use by September 1, 2001.
- Conduct a research project with Washington State University that will evaluate Washington's traffic safety education delivery systems and their influence on driver behavior in relation to the driver's age, the course content and its duration. The project is currently underway and will conclude December 31, 2002.

DOL will:

- Take the lead in capturing and providing data to WTSC and the legislature for the Sunset review of the IL program. The ability to collect, compile and provide IL data will be fully implemented by July 1, 2001.
- Deliver a new brochure, expand its Internet website offerings, and update its "Hit the Road" videotape and driver guide to provide information on IL requirements, restriction and driver sanctions. The updated video was released to the public and commercial driving schools this past February. The IL brochure was distributed to the public in May.
- Enhance its programming to ensure that youth meet the IL licensing prerequisites, and that IL driver performance data of interest to the legislature is accumulated both for near-term and long-term purposes. The computer programs have been enhanced over the past year and data will be accumulated indefinitely unless the IL program is terminated.

- Implement a driver data access system that facilitates *ad hoc* inquiries and research by DOL and other traffic safety and law enforcement agencies. This system will significantly enhance the availability of driver data as well as increasing the flexibility of what kind of information can be obtained and how it is compiled. The first phase of this inquiry system is due for implementation in August of this year. The third phase of this project is intended to provide direct access to this data by select externals, and it is due to be implemented by April 2002.

WTSC will:

Complete the measurement and analysis of specific driving behaviors and outcomes and will interpret and present the driving data pertinent to a systematic evaluation of the effectiveness of IL, including (but not limited to) the following:

- The number of fatal crashes involving any driver in any of the six sample groups
- The total number of traffic crashes, by severity level, involving any of the drivers in the sample groups
- The number of traffic infractions, by type of infraction, charged to any driver in the sample groups
- Per capita (licensed drivers) rates for each of the data points listed above
- Per mile-traveled rates for each of the 16-year-old cohorts

Following the summary of the key output and outcome measures is a brief description of the research design. A more detailed prospectus describing our planned research and data analysis methods may be found in the Appendix to this document.

This plan presents how intermediate license data will be documented and quantified so that the costs and benefits of this initiative can be measured and evaluated. It will also show how IL data will be accumulated to facilitate short-term and long-term analyses.

Performance Measures

Our proposed performance measures are as follows.

Input Measures

There are no specific input measures being proposed for this plan due to the manner in which the IL program is being implemented. This is possible because automated processes incorporate IL data collection into licensing activities with virtually no cost and a minimum of impact to current workloads. This avoids any negative impacts to customer service delivery such as increased wait time in licensing services offices. Limited data entry and automated data accumulation will increase the accuracy and accountability of the information that is compiled by the plan. So, in brief, it is expected that while the workload is statistically measurable, implementation of IL will be absorbed into licensing operations.

Output Measures

The following output measures will include IL workload data that represent the type of service being provided as well as the quantity of services being delivered. The data will be tracked by the age and gender of the driver. The key output measures are:

- OP 1 The number of IL issued
- OP 2 The total number of IL on record
- OP 3 The number of IL restrictions extended until age 18

- OP 4 The number of IL warning letters sent to the drivers' parents
- OP 5 The number of IL drivers suspended for 6 months
- OP 6 The number of IL drivers suspended until age 18
- OP 7 The number of IL drivers that have been revoked

In addition, a number of other data points are being employed to show IL output. These points will aid in the analysis of driver performance and the dynamics of different geographic areas and driving environments. These data points include the date a driver's IL is issued and the date the IL designation ends, the number of written driver knowledge tests and driver skills tests failed, the name and location of the driver training school attended and the time of a traffic offense and/or collision.

Outcome Measures

Outcome measures for the IL program are intended to show the program's success in positively impacting the incidence of teen involvement in traffic violations, automobile collisions and the number of injuries and deaths that occur. A number of outcome measures are being proposed that will document the results of the IL program. One of these is this group's fatal crash rate. In Washington the current fatal crash rates for 16- and 17-year-old drivers are, respectively, 5.7 and 4.3 fatal crashes per 10,000 licensed drivers per year. In keeping with the experience of other states and the nature of the driving environment in Washington, it is expected that IL implementation will reduce crash and violation rates for 16- and 17-year-old drivers. The following outcome measures (and target goals) will be used to evaluate the effectiveness of the IL program:

- OC 1 Reduce traffic collisions among 16- and 17-year-old drivers by 10% per year over the first three years
- OC 2 Reduce fatal crashes among 16- and 17-year-old drivers by 10% per year over the first three years
- OC 3 Reduce crashes from 1 a.m. to 5 a.m. among 16- and 17-year-old drivers by 20% per year over the first three years
- OC 4 Reduce traffic offenses and violations among 16- and 17-year-old drivers by 15% over the first three years

Achievement of these target goals for 16- and 17-year-old drivers would result in approximately:

- 1,100 fewer collisions per year (a decrease from 11,000 to 9,900),
- 4 fewer fatal collisions per year (a decrease from 40 to 36)
- 50 fewer collisions between 1 AM and 5 AM per year (decrease from 250 to 200)
- 6,000 fewer traffic violations per year (decrease from 40,000 to 34,000)

General Research Design

Measuring the effectiveness of the intermediate license program requires a comparison of current driver data against baseline data. The WTSC has identified the currently-available demographic, traffic safety and driver-record data that will be used to provide an appropriate baseline. This baseline will then be used to compare IL driver performance against baseline (pre-IL) driver performance in order to show the expected improvements in traffic safety outcomes.

To test the effectiveness of the intermediate license law, a combination of the retrospective cohort and prospective cohort models will be used. The first set of cohorts will include licensed drivers who turned age 16, 18 and 30 during 1999. The second set of cohorts will include licensed drivers who turned 16, 18, and 30 in 2002. Each of the six groups will consist of random samples of 10,000 drivers per group. The most recent data available indicates that 35,747 drivers are age 16, and that 54,036 drivers are age 17. Using a cohort of 10,000 drivers from 1999 will provide a large enough sample to detect changes in all outcome measures.

For each of the driver cohorts the dependent variables to be measured will be:

- The number of crashes per year
- The number of fatal crashes per year
- The total number of traffic offenses per year
- The number of "major" offenses including DUI and reckless driving per year
- The number of moving offenses including failure to yield and speeding per year

These data measurements will be gathered over a three-year period for all six groups. The three-year tracking period for the 16-year-old drivers will begin on the date that they receive their intermediate license. The tracking period for the older drivers will begin on the date of their 18th or 30th birthdays.

Data Collection

The goal of data collection is to be able to quantify and estimate the benefits stemming from the IL program. All of the aforementioned outcomes are likely to be among the potential benefits of implementing an effective IL program. In order to report on and assess the level of achievement of the proposed outcome measures, the data pertaining to many aspects of driving will be collected and analyzed. DOL has modified its programs that capture, record and report driver performance data at various times of the year. Daily processes will compile data into monthly and semi-annual reports that present and provide data relevant to IL performance measurement. The following tables summarize the key IL output and outcome data points that will be employed for the IL program:

Measure	Key IL Data	Maintained and collected by	Timing
Output 1	The number of ILs issued	DOL	Monthly
Output 2	The number of ILs on record	DOL	Semi-annually
Output 3	The number of IL restrictions extended until age 18	DOL	Semi-annually
Output 4	The number of warning letters sent to the parents of IL drivers	DOL	Semi-annually
Output 5	The number of 6 month suspensions of IL drivers with licenses	DOL	Semi-annually
Output 6	The number of IL drivers with licenses suspended until age 18	DOL	Semi-annually
Output 7	The number of IL drivers with licenses that have been revoked	DOL	Semi-annually

Measure	Key IL Data	Maintained and collected by	Timing
Outcome 1	Number of 16- and 17-year-old driver collisions	WSP	Annually
Outcome 2	Number of 16- and 17-year-old driver fatal collisions	WSP	Annually
Outcome 3	Number of 16- and 17-year-old driver collisions between 1 AM and 5 AM	WSP	Annually
Outcome 4	Number of 16- and 17-year-old driver violations	DOL	Annually

Contingencies for Data Collection and Performance Measurement

Timely entry of conviction information on the driving record is of paramount importance to the effectiveness of the Intermediate License sanctions. Administrative sanctions (extended restrictions, warning letters and suspension actions) are initiated by conviction information added to the record. Currently, there is a 30 to 60 day delay from the date of the conviction to the entry of the conviction on the driving record. This delay is due in part to the manual processing of citations between the courts and the Department of Licensing. The Department of Licensing and Seattle Municipal Court are currently implementing the electronic transfer of conviction information on traffic violations. This project, known as DHIP (Driver History Initiative Project) will eliminate the manual data entry of citation information from Seattle Municipal Court and will greatly reduce the backlog of citations to be entered. The Department of Licensing continues to seek the cooperation of the Office of the Administrator for the Courts to implement the electronic transfer of citation information from all the district and municipal courts.

Contingent on approval by the 2001 Legislature, it is anticipated that the statewide traffic collision database will be transferred from the WSP to the WSDOT, and that complete collision data from 1999 forward will be available for the study. If problems with the statewide collision database arise, we will be limited to using fatal collision data (from the FARS system) and the collision data maintained on the DOL record system (recognizing that only a limited number of data elements are included in the DOL collision data).

Conclusion

In conclusion, it is our shared belief that the results of the data collection and performance measurement plan detailed here will demonstrate the effectiveness of Washington's intermediate license initiative. In addition, while they are not easily quantified, we feel there are other overall benefits to be gained from the intermediate license program:

- The intermediate license law should enhance public safety on Washington's highways for all our citizens. Working in combination with other traffic safety initiatives, the state's drivers should have the perception that the roads are safer
- The safe driving habits of beginning drivers will improve dramatically in the short-term and should increase even further in subsequent years
- The prevalence of aggressive driving may be reduced, and other related incidents, like DUI, will also be diminished
- External entities like insurance companies may be positively impacted, possibly sending resultant savings on to their customers

Appendix A

RESEARCH PROSPECTUS

AN EVALUATION OF ESSB 6264, THE INTERMEDIATE DRIVERS' LICENSE LAW

**RICHARD DOANE and PHILIP SALZBERG
WASHINGTON TRAFFIC SAFETY COMMISSION**

Appendix A

RESEARCH PROSPECTUS

AN EVALUATION OF ESSB 6264, THE INTERMEDIATE DRIVERS' LICENSE LAW

**RICHARD DOANE and PHILIP SALZBERG
WASHINGTON TRAFFIC SAFETY COMMISSION
May 3, 2001**

Background and Purpose

Recognizing that newly licensed youthful motorists are chronically over-represented in traffic crashes, the 56th legislature passed ESSB 6264, which requires young novice drivers to obtain and carry a restrictive "intermediate" license until they reach the age of eighteen years. The law also prohibits intermediate drivers, for six months after receiving an intermediate license, from driving between 1 a.m. and 5 a.m. unless supervised by a parent, guardian, or licensed driver at least 25 years old, or from carrying passengers under the age of twenty who are not in the driver's immediate family. For the remaining period of intermediate licensure, the license holder may not operate a motor vehicle carrying more than three passengers under the age of twenty who are not members of the holder's immediate family. Moreover, intermediate licensees who commit a single traffic offense, as described in 46.61 RCW, or who violate one of the intermediate license restrictions described in section 2 of ESSB 6264 will receive a written warning from the Department of Licensing. Upon committing a second offense or violation, intermediate licensees will receive a license suspension lasting either six months or until reaching eighteen years of age, whichever occurs first. A third offense or violation will result in the licensee's suspension until reaching the age of eighteen. The intermediate license program will be implemented on July 1, 2001.

Section 12 of ESSB 6264 directs the Department of Licensing and the Traffic Safety Commission to collaborate in providing information that will enable the Joint Legislative Audit and Review Committee to complete a review of the intermediate drivers' license program before June 30, 2008. The JLARC review will assess whether the intermediate license program has proven successful in significantly reducing the number of traffic offenses and motor vehicle crashes involving novice drivers as well as the costs (inputs) and performance (outputs) of the program. This proposal outlines an evaluation study that will assess the effectiveness of the program.

Method

To test the effectiveness of the intermediate license law, we will combine the retrospective cohort and prospective cohort models. The prospective cohorts will include (a) licensed drivers who turn 16 during 2002, (b) licensed drivers who turn 18 in 2002, and (c) licensed drivers who turn 30 in 2002. The retrospective cohorts will include (d) licensed drivers who turned 16 during 1999, licensed drivers who turned 18 during 1999, and licensed drivers who turned 30 in 1999. First-time licensees will be excluded from each of the four older-driver cohorts, i.e., 18-year-olds and 30-year-olds. Each of the six groups will consist of 10,000 drivers randomly drawn from DOL records for licensees in the same age group.

The dependent variables to be measured will be the number of crashes, the number of fatal crashes, the total number of traffic offenses, the number of “major” offenses (e.g., DUI, reckless driving), and the number of moving offenses (e.g., failure to yield, speeding) involving drivers in each of the cohorts. We will gather these data measurements over a three-year period for all six groups. The three-year tracking period for the 16 year-old drivers will begin on the date that they receive their intermediate license. The tracking period for the older drivers will begin on date of their 18th or 30th birthdays.

These dependent variable measurements will readily convert to age-specific rates – e.g., total crashes per 10,000 drivers. In turn, these rates will be used to make comparisons over the three-year tracking time period within each cohort, and comparisons will be made between the age cohorts (see sample table below). These data will then be analyzed using a variety of statistical tests to determine the nature and extent of the differences between comparisons.

The most important comparisons will be drawn between novice drivers turning 16 in 1999 and novice drivers turning 16 in 2002. Our study hypothesis is that the dependent measure rates will decline significantly for the 2002 novice drivers, as compared to the 1999 novice drivers, owing to the salutary (i.e., performance incentive) effects of the intermediate licensing law. That is, among novice drivers in the 2002 sample group we expect to find significantly fewer traffic crashes and offenses than among novice drivers in the 1999 sample group.

In addition, we will collect data on miles of driving by newly licensed drivers through a survey of 16-year olds. They will be asked to report number of miles of driving each month during their first year of licensure. A pre-IL sample of drivers will be obtained just prior to implementation of the IL program, and a post-IL sample will be obtained during 2002. These data will allow us to assess the hypothesis that the IL program may result in less driving by teenagers. This, in turn, will permit us to evaluate whether a finding of reduced numbers of collisions among IL drivers can be reasonably attributed to “safer driving” vs. “less driving”. Data will also be obtained from DOL records on the numbers of newly licensed 16-17 year olds before and after implementation of the IL program. Licensing rates (per 10,000 population of 16-17 year olds) will be computed and analyzed to determine if the IL program was associated with any changes in licensure rates.

The 18- and 30-year-old cohorts in this study will serve as control groups. We hypothesize that measured rate decreases (between 1999 and 2002) for 18- and 30-year-old drivers will not be as great as those observed for 16-year-old drivers. If this hypothesis is not supported by the data, that eventuality will indicate that factors other than the new law are affecting the performance of drivers in all three 2002 age groups, thereby reducing our estimate of the intermediate license law’s safety impact on novice drivers.

RESEARCH DESIGN FOR EVALUATION STUDY OF ESSB 6264

	1999 Cohorts			2002 Cohorts		
	Dependent measures in 2000	Dependent measures in 2001	Dependent measures in 2002	Dependent measures in 2003	Dependent measures in 2004	Dependent measures in 2005
Licensed Drivers turning 16 in...						
Licensed Drivers turning 18 in...						
Licensed Drivers turning 30 in...						

All dependent variables will be measured/assessed for each of the cells in this evaluation design.

Appendix B

TIMELINE AND ACTIVITIES

WTSC EVALUATION STUDY OF THE SAFETY IMPACT OF THE INTERMEDIATE LICENSE PROGRAM

Appendix B

TIMELINE AND ACTIVITIES

WTSC EVALUATION STUDY OF THE SAFETY IMPACT OF THE INTERMEDIATE LICENSE PROGRAM

May 3, 2001

1. May-December 2001.

Obtain driver record data from DOL for the 1999 cohort groups. Identify all drivers in each of the three age groups and randomly select 10,000 drivers per group for the study. Set up database for the study, including complete 5-year driving records. Compute dependent variables for the 1999 cohort groups covering the time period through mid-2001.

Driving exposure sub-study. Select pre-IL sample of newly licensed teenage drivers (May-June 2001) and track their driving exposure for the first year of driving.

2. January-December 2002.

Coordinate with DOL to monitor IL activities and insure that all IL data elements needed for the study are entered on the records of newly licensed 16 and 17 year olds. Assist DOL in generating summary reports of performance measures.

Driving exposure sub-study. Select post-IL sample of new drivers with IL license (May-June 2002) and track their driving exposure for the first year of driving.

3. February 2003.

Obtain driver record data from DOL for the 2002 cohort groups. Identify all drivers in each of the three age groups, i.e.,

- (1) drivers who obtained an IL in 2002,
- (2) drivers who turned age 18 in 2002,
- (3) drivers who turned age 30 in 2002.

Randomly select 10,000 drivers per group for the 2002 cohorts. Set up study database for the 2002 groups.

4. February 2003.

Obtain driver records for the 1999 cohort groups covering the time period through the end of 2002. Update the 1999 cohort database for dependent variables covering the time period through the end of 2002.

5. February-June 2004.

Obtain driver records for the 2002 cohorts. Compute dependent variables for the time period through the end of 2003.

Do preliminary analysis of driving record data and statistical comparisons of the study groups for the first year of driving, i.e., 2000 for 1999 cohort groups and 2003 for the 2002 cohorts. Write a preliminary report of evaluation findings.

6. February-June 2005.

Obtain and update driver records for the 2002 cohorts. Compute dependent variables for the time period through the end of 2004.

Do preliminary analysis of driving record data and statistical comparisons of the study groups for the first and second year of driving, i.e., 2000-2001 for 1999 cohort groups and 2003-2004 for the 2002 cohorts. Write a second preliminary report of evaluation findings.

7. February-October 2006.

Obtain and update driver records for the 2002 cohorts. Compute dependent variables for the time period through the end of 2005.

Do final analysis of driving record data and statistical comparisons of the study groups for the first, second, and third year of driving, i.e., 2000-2001-2002 for 1999 cohort groups and 2003-2004-2005 for the 2002 cohorts. Write draft final report of evaluation findings by October 2006.

8. November-December 2006.

Obtain review and comments. Revise and submit final report to JLARC by December 2006.

Appendix C

THE INTERMEDIATE DRIVER LICENSE LAW

RCW 46.20.075

RCW 46.20.100

RCW 42.17.020

RCW 46.20.075
Intermediate license. (Effective July 1, 2001.)

- (1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least sixteen years of age and:
 - (a) Have possessed a valid instruction permit for a period of not less than six months;
 - (b) Have passed a driver licensing examination administered by the department;
 - (c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;
 - (d) Present certification by his or her parent, guardian, or employer to the department stating
 - (i) that the applicant has had at least fifty hours of driving experience, ten of which were at night, during which the driver was supervised by a person at least twenty-one years of age who has had a valid driver's license for at least three years, and
 - (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;
 - (e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and
 - (f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.
- (2) For the first six months after the issuance of an intermediate license or until the holder reaches eighteen years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of twenty who are not members of the holder's immediate family as defined in RCW 42.17.020. For the remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of twenty who are not members of the holder's immediate family.
- (3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m. except when the holder is accompanied by a parent, guardian, or a licensed driver who is at least twenty-five years of age.
- (4) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.
- (5) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.
- (6) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

(7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the twelve-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an automobile accident; and

(b) Has not been convicted or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section.

[2000 c 115 § 2.]

Reviser's note -- Sunset Act application: The intermediate driver's license program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.397, RCW 46.20.075, 46.20.267, and 28A.220.070; 2000 c 115 § 1 (uncodified); and the 2000 c 115 amendments to RCW 46.20.105, 46.20.161, 46.20.311, and 46.20.342 are scheduled for future repeal under RCW 43.131.398.

Effective date -- 2000 c 115 §§ 1-10: "Sections 1 through 10 of this act take effect July 1, 2001." [2000 c 115 § 14.]

RCW 46.20.100 **Persons under eighteen.**

(2) **Traffic safety education requirement.** For a person under the age of eighteen years to obtain a driver's license he or she must meet the traffic safety education requirements of this subsection.

(a) To meet the traffic safety education requirement for a driver's license the applicant must satisfactorily complete a traffic safety education course as defined in RCW 28A.220.020. The course must meet the standards established by the office of the state superintendent of public instruction. The traffic safety education course may be provided by:

(i) A recognized secondary school; or

(ii) A commercial driving enterprise that is annually approved by the office of the superintendent of public instruction.

RCW 42.17.020 **Definitions.**

23) **"Immediate family"** includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

Part 3

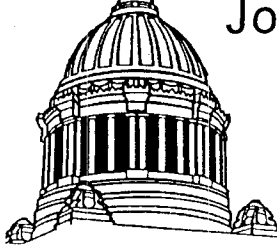
Office of Public Defense

June 18, 2001, JLARC Audit Team Memo
to Committee

June 11, 2001, Cover Memo from the
Washington State Office of Public Defense
to JLARC

Performance Measures and Data Collection Plan Report

- › Attachment 1 – Indigent Defense in
Washington State
- › Attachment 2 – Office of Public Defense
Data Collection Plan



E-mail: neff_ba@leg.wa.gov
Internet: <http://jlarc.leg.wa.gov>

Joint Legislative Audit and Review Committee

LEGISLATIVE AUDITOR Tom Sykes

506 16th Avenue S.E.
Olympia, WA 98501-2323
Campus Mail: PO Box 40910

PHONE: 360-786-5171
FAX: 360-786-5180
TDD: 1-800-635-9993

SENATORS

Darlene Fairley
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(1 vacancy)

June 18, 2001

TO: ^{RK}Members of the Joint Legislative Audit and Review Committee

FROM: Robert Krell, Principal Management Auditor
Ron Perry, Staff Coordinator ^{RP}

RE: Office of Public Defense – Sunset Review Performance Measures and Data Collection Plan

Attached is the Performance Measurement and Data Collection Plan, and accompanying cover letter, for the Sunset Review of the Office of Public Defense. The Plan responds to the new statutory requirement that entities subject to termination under the Sunset Act “*develop performance measures and a data collection plan and submit them for review and comment to [JLARC].*”

The Office of Public Defense (OPD), is an independent judicial branch agency that was established in 1996. Pursuant to its enabling statute, its purpose is to “*implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of indigent appellate services funded by the state of Washington...*” Key responsibilities include administering state funds appropriated for appellate indigent defense services, and developing procedures, standards and guidelines related to those services. Pursuant to the Sunset Act, the Office is scheduled to terminate in 2008, with a JLARC sunset review in 2007.

As noted in the attached plan, key outcome measures on which the OPD’s effectiveness will be evaluated include (but are not limited to):

- the proportion of new statewide appeals where indigent defense is provided by attorneys working under OPD contracts [as a means of providing *effective* services),
- the percentage of appellate judges, responding to an OPD survey, that rate the quality of indigent appeal services as “effective,”
- the percentage of appellate judges, responding to an OPD survey, that indicate they believe such services are being provided efficiently, and
- the percentage of indigent appellate defense briefs that are rejected by appellate courts for being of unacceptable quality.

Memo to Members of the Joint Legislative Audit and Review Committee

Re. Office of Public Defense – Sunset Review Performance Measures and Data Collection Plan

June 18, 2001

Page 2

In addition to outlining performance measures and a data collection plan, the attached Plan also provides background information on the agency and its legislative directive, as well as a description of how it interacts with other agencies.

We appreciate the efforts and cooperation of the Office of Public Defense in preparing this Plan. We believe it will provide a framework for evaluating the agency and providing the legislature with the information it will need to make a decision as to whether the agency should be continued after its scheduled termination date. Additionally, the agency indicates that it will report on its performance measures on a regular basis, as part of its biennial budget submission.

Attachments



Internet Email: opd@opd.wa.gov

**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

(360) 956-2106
FAX (360) 956-2112

MEMORANDUM

RECEIVED

JUN 12 2001

JLARC

TO: Tom Sykes
Legislative Auditor

FROM: Joanne Moore
Director

DATE: June 11, 2001

RE: Office of Public Defense Joint Legislative Audit and Review
Committee Report

The Office of Public Defense (OPD), a judicial branch agency, was created to provide efficient management of and accountability for state funds spent on indigent appellate defense and to implement the constitutional right to counsel. Our performance measures and data collection report is enclosed.

The attached plan focuses on our agency's key responsibilities. In addition, however, the legislature over the past few years has called on us to carry out new tasks above and beyond those specified in our enabling statutes, and I would like to briefly highlight these:

- In 1997, the legislature directed OPD to create a new payment system for appellate death penalty defense. OPD has spent a substantial amount of time implementing and adjusting a new funding method for compensating death penalty attorneys.
- In 1998, the legislature charged OPD with creating annual prioritized lists of county claims for state reimbursement of funds spent on aggravated murder cases under the Extraordinary Criminal Justice Costs Act, RCW 43.330.190.

- We have also been asked to analyze, report on, and act to remedy other constitutional right to counsel problems in recent years, including being directed as follows:
 - By the 1999 Legislature, to produce an equitable cost proposal for children and parents' representation in dependency and termination cases and,
 - By the 2000 Legislature, to implement a pilot program in Pierce and Benton-Franklin counties for the enhancement of constitutionally required representation of parents

The right to counsel is a cornerstone of our justice system. OPD is committed to ensuring that the substantial funds spent by the state in this area are efficiently managed to ensure high-quality services, and that appointed representation is implemented in a meaningful manner. We are a small agency, but feel our mandate is of utmost importance and are proud of our accomplishments during the past five years.

Thank you for giving us the opportunity to report on our agency, and for working with us during this process. Please let me know if we can provide more information.

Washington State Office of Public Defense

Performance Measures and Data Collection Plan

Pursuant to the Sunset Law Requirements

Overview of the Agency

Judicial Branch Agency. The Office of Public Defense (OPD) is a judicial branch agency providing this information in cooperation with and as requested by the Joint Legislative Audit and Review Committee pursuant to the Sunset Review Act.

Background. In the mid-1990s, problems developed in the system used to provide indigent appellate services within the state. In response, the Washington State Supreme Court established the Appellate Indigent Defense Commission to examine the issues. The Commission recommended the creation of the Office of Public Defense, to be responsible for administering appellate indigent defense services on a statewide basis. Enabling legislation was passed by the 1996 Legislature, and pursuant to the new statute, all powers, duties and functions pertaining to appellate indigent defense were transferred to the agency. (See Attachment I for a more detailed description of indigent defense services in Washington.)

Description of the Agency. The Office of Public Defense Advisory Committee, consisting of judges, legislators, attorneys, and program managers, oversees the agency. The Advisory Committee meets on a quarterly basis to consider pertinent issues, set policies, approve court rule and legislation requests, oversee program development, consider budget matters, and hear grievances and financial appeals.

The Office of Public Defense has a 5.5 FTE staff. The director and deputy director are attorneys. The executive assistant manages the office with the assistance of a part-time technology assistant. The financial staff consists of a fiscal analyst and an accountant, who process all indigent appellate defense payments statewide. The agency's work consists of:

- Processing and paying invoices from attorneys, court reporters, court clerks, and others who have rendered appellate services, according to standards and rates according to rates adopted by the Office of Public Defense Advisory Committee or court rules.
- Writing and submitting the biennial budget for all costs related to appellate indigent defense and for administering all appellate indigent defense services.

- Establishing administrative procedures, standards, and guidelines for the provision of services. These include the agency's provision of cost summaries to county prosecutors upon request so counties may collect appellate costs from convicted defendants pursuant to state laws.
- Creating programs to implement the constitutional right to counsel or provide effective and efficient appellate indigent defense services as requested by the legislature, Supreme Court or Court of Appeals, and Advisory Committee.
- Preparing special reports on indigent defense or related issues.
- Reporting to the legislature and the Supreme Court annually on appellate indigent cases funded by the state and on indigency issues.

The agency does not provide direct representation to clients.

Legislative Intent

The legislature articulated its purpose in creating the Office of Public Defense as:

RCW 2.70.005 Intent. *In order to implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of the indigent appellate services funded the state of Washington, an office of public defense is established as an independent agency of the judicial branch.*

In accordance with this directive, the agency believes the legislature intends the Office of Public Defense to actively seek improvement of indigent appellate defense services and to affirmatively work to improve the implementation of the constitutional guarantee of counsel.

Agency Roles

The courts are the key entities with which the agency most frequently interacts. The agency's enabling statute mandates the director to "[c]oordinate with the supreme court and judges of each division of the court of appeals to determine how attorney services should be provided." [RCW 2.70.020(6)] Thus, the Office of Public Defense is required to regularly consult with the judges and clerks of the appellate courts. Such consultation allows the agency to evaluate the effectiveness and efficiency of attorney provision and payment methods, and to create feasible, meaningful improvements.

The agency also works with the Office of the Administrator for the Courts' Judicial Information services staff on a regular basis for data collection purposes. In

addition, the Office of Public Defense interacts with trial courts statewide, as well as state and local public defense entities, regarding indigent defense issues.

Performance Measures

Input Measures:

1. Number of Staff
2. Budget Allocation

Output Measures:

1. Number of invoices processed, by type
2. Number and/or dollar amount of claims rejected for payment
3. Number of court rules proposed
4. Number of annual reports to the legislature and the courts, including reporting on the appropriateness and consistency of standards for determining and verifying indigency
5. Percentage of claims processed for reimbursement within 10 working days
6. Number of cost summaries provided to county prosecutors for purposes of facilitating county recoupment of costs according to state law, and the percentage processed within two days of request
7. Number of county petitions for extraordinary justice cost reimbursements processed and submitted to legislature in prioritized list
8. Number of recommendations to the legislature for potential legislation on implementation of the constitutional guarantee of counsel
9. Number of fiscal notes and other responses to legislative requests

Outcome Measures:

1. In at least 75 percent of statewide appeals, indigent defense will be provided by attorneys working under OPD contracts
2. At least 70 percent of appellate judges, responding to an OPD survey, will rate quality of indigent appeal services as "effective"

3. At least 70 percent of appellate judges, responding to an OPD survey, will indicate they feel such services are being provided efficiently
4. Less than 5 percent of indigent appellate defense briefs will be rejected by appellate courts as being of unacceptable quality
5. The contract fee funding method for death penalty appellate cases will be increased to 100 percent of the cases

Data Collection Plan

The Office of Public Defense data collection plan is attached as Appendix II.

Conclusion

As a judicial branch agency, the Office of Public Defense was created to implement the right to counsel and effectively and efficiently disburse state funds for indigent appellate cases. The agency performs an analysis and oversight function for defense representation in cases involving fundamental rights of indigent Washington residents and manages state funds appropriated for appellate indigent defense. These funds are spent pursuant to payment methods that ensure high-quality and efficient representation and services. The agency works to implement the constitutional right to counsel statewide, and fulfills requests of the courts and the legislature in this area. No other agency administers such funds or provides this type of oversight for these important cases.

Indigent Defense in Washington State

Right to Counsel. The United States and Washington constitutions guarantee the right to counsel at both the trial and appeal level to all persons who are charged with a crime or juvenile offense, or are parents or guardians to a child involved in a dependency or parental termination proceeding, or are the subject of certain types of civil proceedings such as involuntary commitments. Individuals who allege they are too poor to be able to afford counsel are screened for indigency by the trial court pursuant to RCW 10.101 guidelines. If they are determined to be indigent, they are appointed counsel at public expense. The counties administer court appointed counsel for indigent persons for both superior and district court trial proceedings. The provision of and payment for trial-level counsel is handled primarily through county public defenders offices or county contracts with private attorneys.

At the appellate level, every person who was convicted of a felony or a juvenile offense, or lost a dependency, termination, or involuntary commitment proceeding has the right to bring an appeal in the Court of Appeals and the right to an appointed attorney if too impoverished to hire counsel, pursuant to the state guidelines. Indigency status is redetermined by the trial court for parties who allege indigency, and, if it is found, the trial court appoints state-funded appellate counsel pursuant to Title 15 of the Rules of Appellate Procedure.

Appellate courts include the three divisions of the Court of Appeals and the Supreme Court. Appellate counsel's primary duties are to read the court reporter-created transcript of all the trial proceedings, research and write a brief outlining the party's best arguments as to why the trial court's decision should be reversed, upheld, or modified, and, if the appellate court schedules oral argument, appear and give an oral presentation to three or more appellate judges. Each stage of an appeal entails many hours of attorney preparation.

History of the Provision of Appellate Indigent Defense Services. Before the Office of Public Defense was created by the 1996 Legislature, the Supreme Court and its administrative agency, the Office of the Administrator for the Courts (OAC) managed the indigent appellate defense fund appropriated by the legislature for the payment of appointed counsel, court reporters, and other persons whose services were necessary for indigent appellate cases. Attorneys were paid flat fees for their work on most cases, and court reporters were compensated according to fee schedules adopted by Supreme Court rules. While individual attorneys were appointed for Division II and III cases, Division I's cases, consisting of about half of the state's total, were almost all handled by a single appellate public defender office. This office became unable to file briefs

and other documents due to internal problems, eventually creating a 700 case backlog. The Supreme Court determined that the system was unworkable in 1995, and OAC stepped in and effected a case transfer to two new competitively selected contractors. In addition, that year the Supreme Court established the Appellate Indigent Defense Commission by court order. Membership included appointments by the Chief Justice, Governor, legislature, Bar Association, and Court of Appeals.

In November 1995, after studying indigent defense systems in other states and meeting with appellate and superior court judges, defense attorney, prosecuting attorneys, and other groups, the Commission recommended the creation of the Office of Public Defense, to be responsible for administering appellate indigent defense services on a statewide basis. Enabling legislation was passed by the 1996 Legislature. Pursuant to the new statute, in July 1996, the Supreme Court and OAC transferred all powers, duties, and functions pertaining to appellate indigent defense to the agency, as well as pertinent documents, contract obligations, and appellate indigent defense funds appropriated by the legislature.

Output Measures

Measure	Key Data	Maintained By	Collected By	Timing
1 - Number of invoices processed, by type	Number of invoices processed	Agency records	Accounting staff	Annually
2 - Number and/or dollar amount of claims rejected for payment	Number of claims rejected	Agency records	Accounting staff	Monthly
3 - Number of court rules proposed	Number of court rules and evaluation of their impact	Agency records and Supreme Court Rules process	Agency director	Annually
4 - Number of annual reports to the Legislature and the courts, including reporting on indigency standards and practices	Number of annual reports	Agency records	Administrative staff	Annually
5- Percentage of claims processed for reimbursement within 10 working days	Timeliness of payment of claims	Agency records	Accounting staff	Monthly
6- Number of cost summaries provided to county prosecutors, and percentage within 2 days	Number and timeliness of cost summaries	Agency records	Accounting staff	Monthly
7 - Number of county petitions for extraordinary justice cost reimbursements processed and submitted to the Legislature in a prioritized list.	Number of county petitions	Agency records	Administrative staff	Annually
8 - Number and impact of recommendations to Legislature or courts on implementation of constitutional guarantee of counsel	Number of and evaluation of recommendations to Legislature or courts on appointed counsel	Agency records	Agency director and deputy director	Annually
9 - Number of fiscal notes and other responses to legislative requests	Number of fiscal notes and request responses	Agency records	Administrative staff	Annually

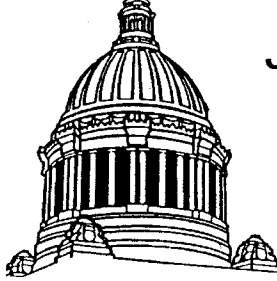
Outcome Measures

Measure	Key Data	Where/How Obtained	Collected By	Timing
1 - In at least 75 percent of new statewide appeals, indigent defense will be provided by attorneys working under OPD contracts	Number of contract cases	Judicial Information System	Administrative staff	Annually
2 - At least 70 percent of appellate judges, responding to an OPD survey, will rate quality of indigent appeal services as "effective"	Judges' opinions - attorney effectiveness	OPD survey	Agency director and deputy director	FY 2003 and FY 2006
3 - At least 70 percent of appellate judges, responding to an OPD survey, will indicate they feel such services are being provided efficiently	Judges' opinions - attorney efficiency	OPD survey	Agency director and deputy director	FY 2003 and FY 2006
4 - Less than 5 percent of indigent appellate defense briefs will be rejected by appellate courts as being of unacceptable quality	Less than 10% of contractors' briefs rejected	Appellate court staff survey	Agency director and deputy director	Annually
5 - The contract fee funding method for death penalty appellate cases will be increased to 100 percent of the cases	Fee contracts for death penalty cases	Agency records	Agency director and deputy director	Annually

Part 4

Underground Storage Tank Program

- June 15, 2001, JLARC Audit Team Memo to Committee
- June 1, 2001, Cover Memo from the Department of Ecology to JLARC
- Performance Measures and Data Collection Plan Report



Joint Legislative Audit and Review Committee

State of Washington

LEGISLATIVE AUDITOR
Tom Sykes

506 16th Avenue S.E.
Olympia, WA 98501-2323
Campus Mail: PO Box 40910

PHONE: 360-786-5171
FAX: 360-786-5180
TDD: 1-800-635-9993

SENATORS

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E-mail: neff_ba@leg.wa.gov
Internet: <http://jlarc.leg.wa.gov>

June 15, 2001

TO: Members of the Joint Legislative Audit and Review Committee (JLARC)

FROM: Rakesh Mohan, Principal Management Auditor *R. Mohan*
Ron Perry, Staff Coordinator *RP*

RE: Underground Storage Tank Program: Performance Measures and Data Collection Plan for Future Sunset Review

Attached is the Department of Ecology's proposed performance measures and data collection plan for JLARC's sunset review in 2008 of its Underground Storage Tank Program.

The new Sunset Law, enacted in the 2000 Session [C 189 L 00], requires JLARC to carry out a "front end" assessment for those policies, programs, and agencies that are under future sunset review. Ecology has submitted the attached document in response to the requirement that agencies subject to sunset review "*...develop performance measures and a data collection plan and submit them for review and comment to [JLARC].*"

The 1989 Legislature enacted legislation to regulate underground storage tanks to protect human health and the environment from potentially leaking tanks, especially those containing petroleum products. This legislation included a sunset termination date of 1999—later extended to 2009.

The Department of Ecology, in the attached report, has proposed to be held accountable to the following key performance measures when the sunset review is conducted in 2008:

- Percent of underground storage tank facilities with upgraded equipment.
- Number of sub-standard underground storage tanks removed or properly closed.
- Reduction in release of hazardous materials from leaking underground storage tanks.
- Percent of sites involving release of hazardous materials from leaking tanks that have been cleaned up.
- Percent of underground storage tank facilities inspected to ensure that they are operating in accordance with state and federal requirements.

Ecology will collect necessary data to track these performance measures in collaboration with the Department of Licensing, which issues master business licenses to owners/operators of underground storage tanks. Ecology will report these performance measures and related data to the Office of Financial Management as part of its biennial budget submissions.

Information from these measures, and the associated data collection plan, will assist JLARC in carrying out its future sunset review of the Underground Storage Tank Program.

Attachment

cc: Tom Fitzsimmons, Director, Department of Ecology
Barry Rogowski, Program Coordinator, Underground Storage Tank Program



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

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June 1, 2001

Tom Sykes
Legislative Auditor
Joint Legislative Audit and Review Committee
506 16th Avenue SE
Olympia, WA 98501-2323

SUBJECT: Underground Storage Tank Program Sunset Review

Enclosed please find a draft of the Underground Storage Tank Program report for the Joint Legislative Audit and Review Committee. The Department of Ecology found your written instructions and the assistance from Rakesh Mohan, Principal Management Auditor very helpful for drafting this report.

Please consider this report a "draft" for your review. We will be very interested to consider any comments or suggestions for improvements made by the committee or staff.

We look forward to meeting with you on June 27, 2001, and will work with Rakesh during the interim to provide any additional information that may be needed.

If you have any questions please feel free to contact me or have your staff contact me at (360) 407-7236.

Thank you,

Barry Rogowski
Underground Storage Tank Coordinator

BR:lt
Enclosure

cc: Rakesh Mohan, Principal Management Auditor, Joint Legislative Audit and Review Committee



Joint Legislative Audit and Review Committee

Underground Storage Tank Program

May 2001

Program Overview

The Washington State Legislature passed a bill in 1989, Chapter 90.76 RCW, giving the Department of Ecology authority and direction to establish a number of rules relating to the regulation of underground storage tanks. The state law mirrored the federal law, which at that time was being implemented by the Environmental Protection Agency. In 1993, the Environmental Protection Agency (EPA) delegated full authority to Ecology to regulate underground storage tanks in this state.

The goal of the 1989 law was to prevent releases from underground storage tanks by ensuring they were installed and managed properly. To meet this goal, all tanks were required to have leak detection, liability insurance, corrosion protection, and spill and overfill protection by December 22, 1998, or be permanently decommissioned. A sunset provision was written into the 1989 law, calling for dismissal of the state's tank program six months after the 1998 deadline.

In the spring of 1998, Governor Locke signed Senate Bill 6130, giving Ecology the authority to regulate underground storage tanks until 2009. The new law had three changes that would affect owners and operators of underground storage tanks: Ecology's local delegation authority was repealed, facility compliance tagging was required, and license fees were increased.

The Underground Storage Tank Program is administered by the Department of Ecology's Toxics Cleanup Program. The Underground Storage Tank Program is working under a strategic plan that was completed in 1999. The strategic plan is being revised for the year 2002. The Toxics Cleanup Program also cleans up contaminated sites, which includes releases from underground storage tanks, under the requirements of the State of Washington Model Toxics Control Act.

Legislative Intent

The intent of the legislature was to have a program that protects human health and the environment by preventing releases of petroleum and regulated substances. Ecology's goal is to prevent underground storage tanks from releasing hazardous materials by providing education, technical assistance, inspections, grants, and enforcement, if necessary, to facility owners and operators. The primary resource the program protects is groundwater.

Roles of Other Key Agencies

Department of Ecology: The Department of Ecology has legislative authority to write underground storage tank rules, conduct compliance and enforcement activities, and issue one-time facility compliance tags. Within this capacity, the agency provides technical assistance, inspections, and works with clients seeking grants.

Pollution Liability Insurance Agency (PLIA): PLIA has authority to provide for cost-effective underground storage tank insurance.

Department of Licensing: The Department of Licensing (Licensing) has authority (via a Memorandum of Agreement with Ecology) to license underground storage tanks through the Master Business License process and collect annual tank fees of \$100 per tank. Licensing also collects pollution liability insurance submittals and provides data to Ecology regarding the registration process (i.e. installation date, tank status, etc.), including payment of annual tank fees. Licensing funds this service through a \$15 registration fee and a \$9 annual renewal fee (per facility).

International Fire Code Institute (IFCI): Through a contract with Ecology, IFCI has the authority to test and certify service providers for installation/retrofitting, decommissioning, tank tightness testing, cathodic protection, and site assessment activity. IFCI is a private organization that provides contractor certification nationally.

Performance Measures Goals and Objectives

The goal of the Underground Storage Tank Program is to protect groundwater and ultimately drinking water through good tank management practices. This is accomplished by focussing on five main objectives.

1. Upgrade operational underground storage tanks to meet state and federal standards.
2. Remove or properly close sub-standard underground storage tanks.
3. Reduce the number of releases reported from underground storage tanks compared to prior years' numbers.
4. Increase the number (percentage) of completed leaking underground storage tank cleanups.
5. Determine that existing underground storage tank systems are in "operational compliance" with state and federal requirements (definition attached).

Performance Measures

Input Measures

- The tank license fee generates approximately \$1.1 million annually. These dollars are used to fund 12 Full Time Employees (FTEs), including supervisors and field inspection staff who provide services to regulated community (i.e. technical assistance, guidance, inspections, compliance assistance, enforcement).
- The program received a \$200,000 federal underground storage tank grant annually that was used to fund 2.5 FTEs in permitting and administrative functions at Ecology's headquarters office.
- The federal leaking underground storage tank grant is \$1.2 million annually and pays for 12.4 FTEs to administer the leaking underground storage tank cleanup function of the program. The leaking underground storage tank staff use the requirements of the State of Washington Model Toxics Control Act MTCA to conduct cleanups. The MTCA does not have a sunset provision.

Output Measures

- Permitting/licensing: The Departments of Licensing and Ecology and the Pollution Liability Insurance Agency permit/license approximately 11,000 underground storage tanks annually. This process ensures that new underground storage tanks are identified, equipment changes are recorded, liability insurance is valid, and fees are paid.
- Compliance Tagging : Since July 1998, the tank program has issued compliance tags to approximately 3,997 facilities operating 10,500 underground storage tanks and continues to issue tags for new construction. This process ensures that facilities meet equipment upgrade/installation standards.
- Tank closure: Tank program staff review tank closure information and issue grants to local governments to decommission tanks and if necessary, clean up residual contamination.
- Inspections, technical assistance, guidance, compliance assistance, enforcement: The tank program has provided 334 compliance inspections, 105 technical assistance visits, 7 formal enforcement actions, 54 informal enforcement actions, and 35 field citations since October of 1999. The program does not track the number of phone calls seeking permit assistance or regulatory guidance.
- Cleanups completed: Under Model Toxics Control Act authority, cleanups are completed by the individual responsible for the release. The Toxics Cleanup Program provides technical assistance and guidance, administers the Voluntary Cleanup Program, and issues administrative orders for cleanup.

Outcome Measures

- The percent and total number of operational underground storage tanks upgraded with the equipment to meet state and federal standards. Ecology tracks facilities upgraded, individual underground storage tanks upgraded, and individual pieces of equipment installed on all operational underground storage tanks statewide. This is a running total reported semi-annually. The target level is 95 percent total facility compliance with equipment upgrade/installation standards. To date, 96 percent of all operating facilities meet the equipment upgrade requirements. Counting individual tanks, 10,508 tanks or 94 percent of tanks meet the requirements. Twenty-five of thirty-nine counties have met or are above the 95 percent target level. (See Tables 1 & 2 for more information.)
- The total number of removed or properly closed sub-standard underground storage tanks. This is a running total reported semi-annually. The program has affected closure of approximately 33,000 underground storage tanks. The target level is 100 percent properly closed or removed (there are less than 500 known sub-standard underground storage tanks remaining). (See Table 3 for more information.)
- Number of releases reported from underground storage tanks. The target level is 50 releases per quarter. A release is reportable when it is considered a potential threat to human health and the environment. In 2000, 201 releases were reported. To date, 90 releases have occurred in 2001. (See Table 4 for more information.)
- Total number (percentage) of cleanups completed. A total of 5,746 releases that need clean up have occurred in the State of Washington. Of those, 3,186 have been completed. 2,560 still need to complete a cleanup. The target level is 300 cleanups completed per year.
- New Objective: Percentage of existing underground storage tank systems inspected and in "operational compliance" with state and federal requirements. This will be a running total reported semi-annually. The target level has not been established yet, because this is a new standard and the baseline has not been established.

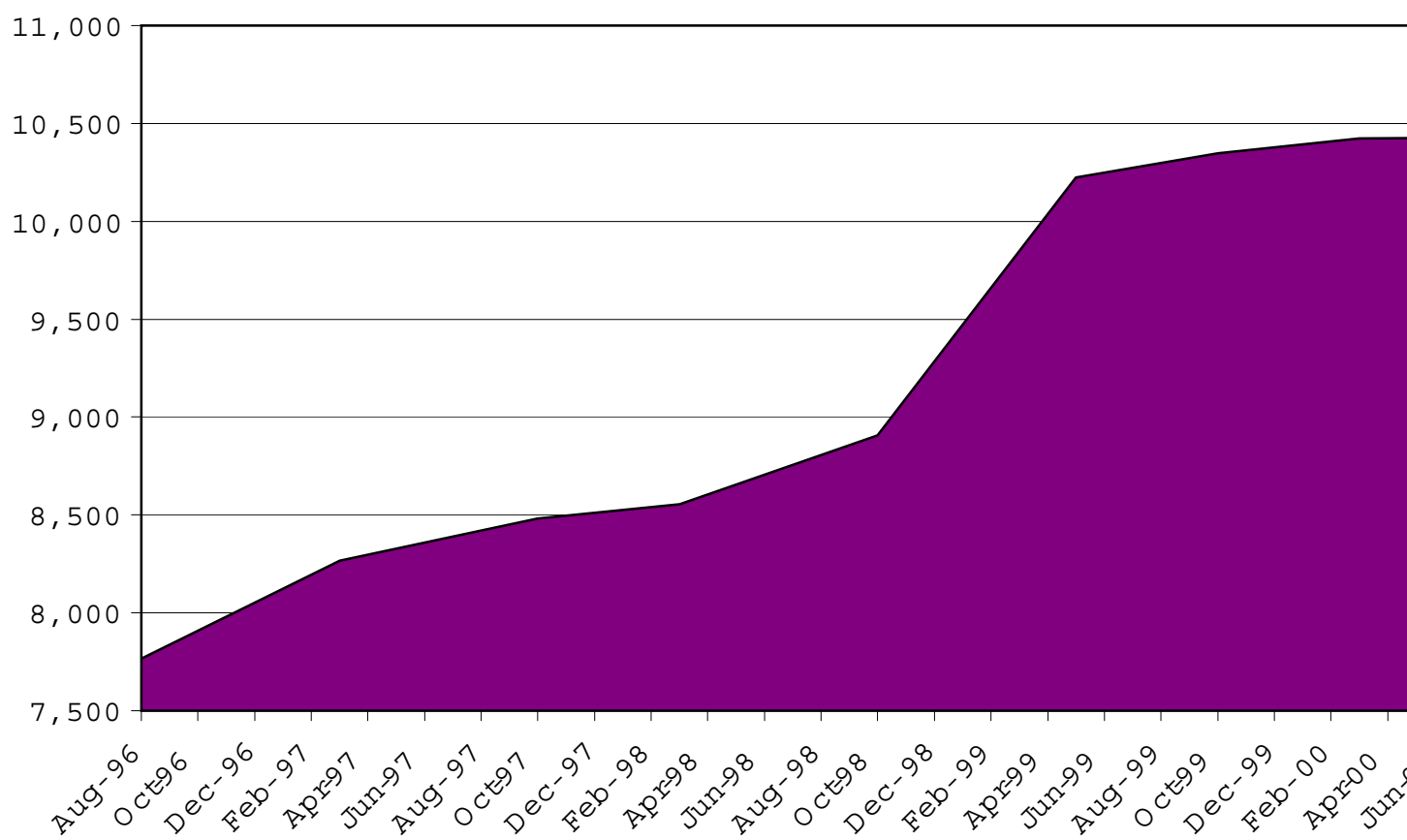
Data Collection Plan

- When (or how frequently) data will be obtained: Ecology obtains underground storage tank data from the Department of Licensing on a daily basis. This information is then uploaded into the tank program's database on a weekly basis in batches. Tank inspectors enter new inspection information upon completion of inspection. Inspectors also enter enforcement and follow-up information. Ecology's fiscal office tracks penalties.

- Where data will be obtained: Underground storage tank owners and operators are required to submit equipment data, closure data, report releases, and liability insurance information to the Department of Licensing. Inspectors gather compliance information and other information at the time of inspection.
- How data will be obtained: See above.
- Who will be responsible for obtaining data: See above.
- Reporting requirements: The program generates quarterly reports for management use and semi-annual reports for EPA.

File: Draft Final Joint Legislative Audit and Review Committee

Table 1
Tank Upgrades
as of April 19, 2001



Washington State Department of Ecology
Underground Storage Tank Facility
Compliance Tag Program
(3,930 total facilities statewide; 3,787 or 96% tagged)

Table 2

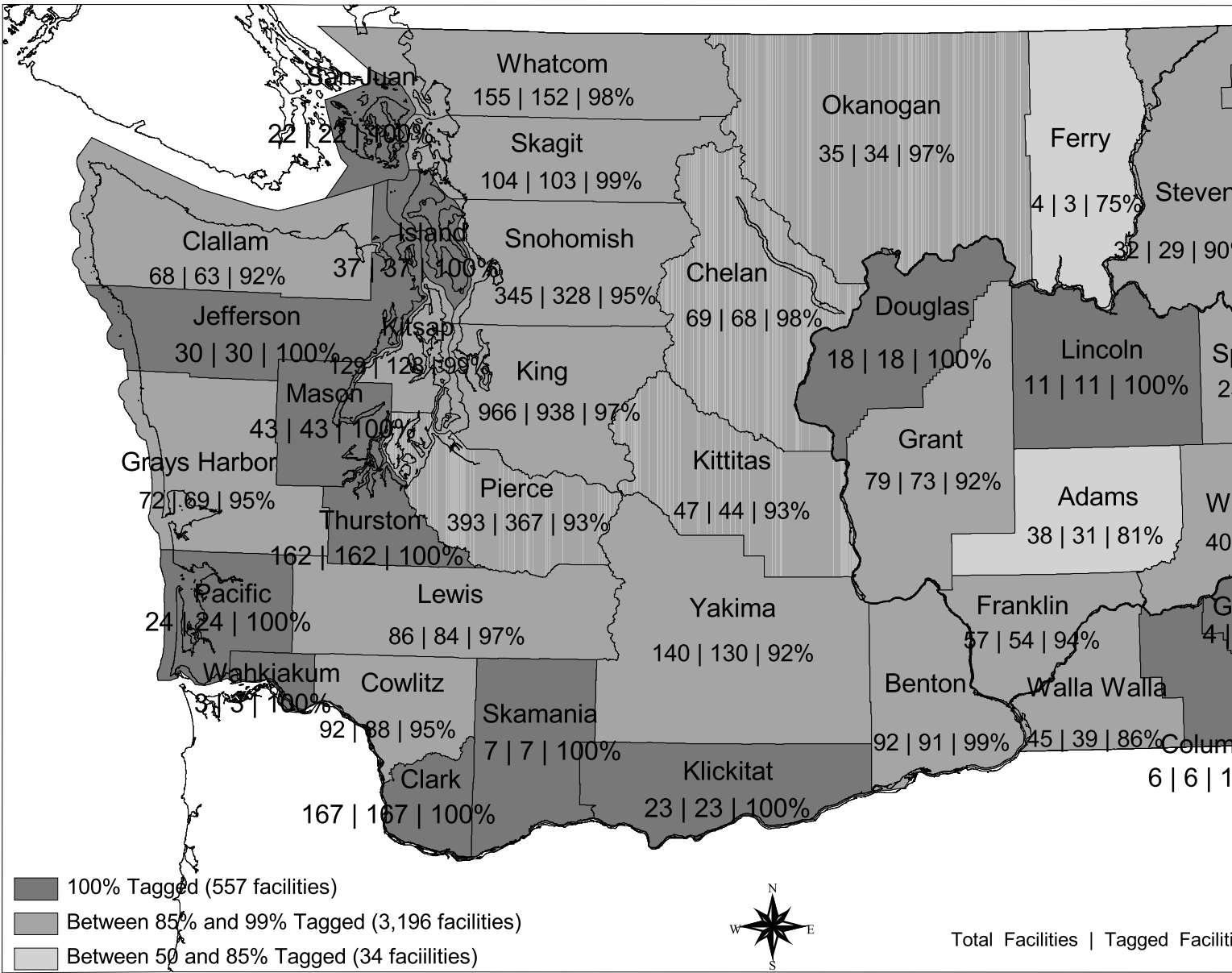


Table 3
Tanks Closed

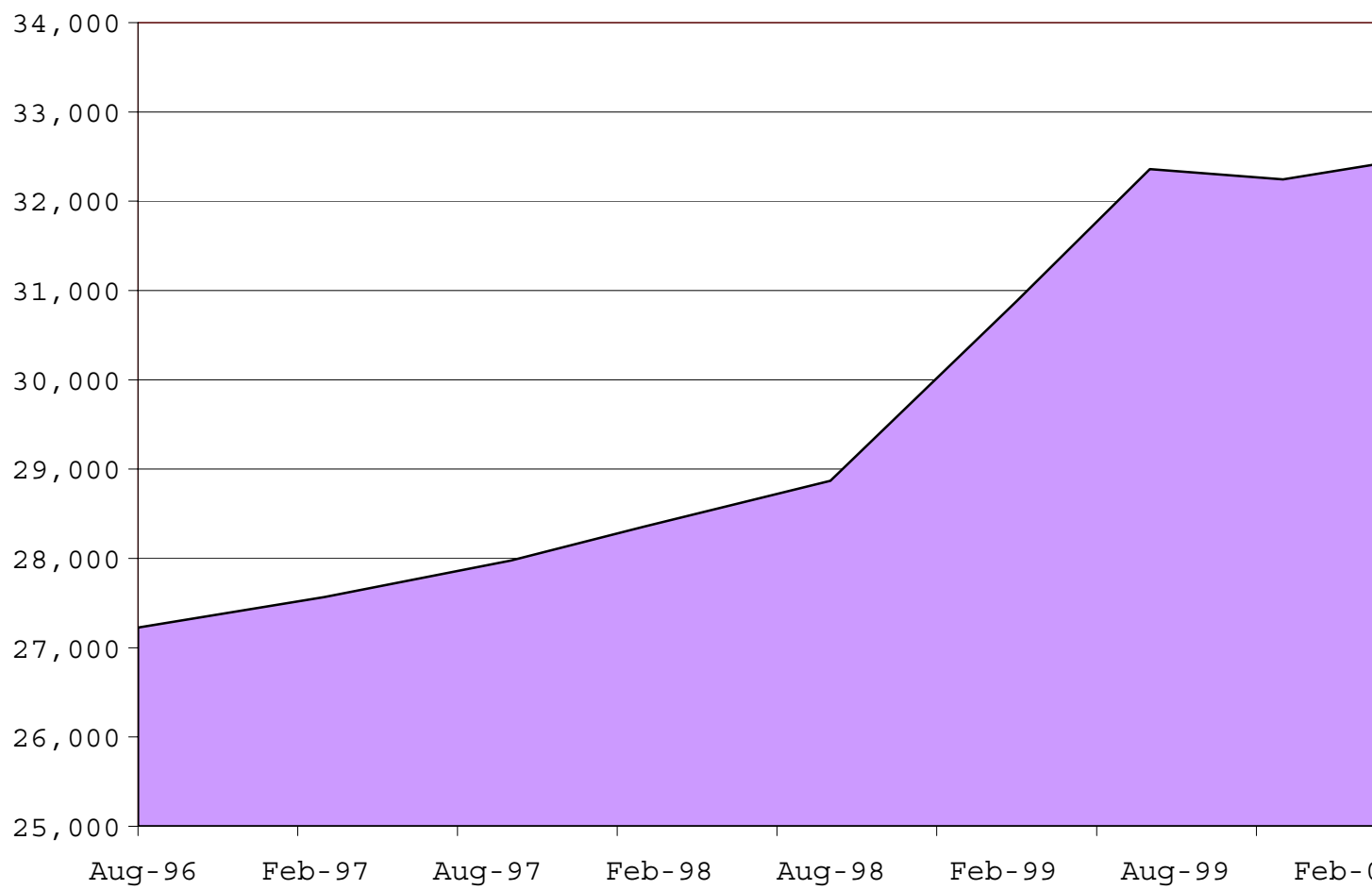


Table 4
Number of Underground Storage Tank Releases as of April 30, 1999

